

SEP-10-2004 01:53PM FROM-VALVE CORP

425-889-9642

T-443 P.002/004 F-585

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VALVE CORPORATION, a Washington
corporation,

Plaintiff,

v.

SIERRA ENTERTAINMENT, INC. (AKA
SIERRA ON-LINE, INC.), a Delaware
Corporation; VIVENDI UNIVERSAL
GAMES, INC., a Delaware Corporation; and
VIVENDI UNIVERSAL, S.A., a French
foreign corporation,

Defendants.

SIERRA ENTERTAINMENT, INC. (AKA
SIERRA ON LINE, INC., a Delaware
corporation; and VIVENDI UNIVERSAL
GAMES, INC., a Delaware corporation,

Counter-Claimants,

v.

VALVE CORPORATION, a Washington
Corporation; GABE NEWELL and LISA
MENNET NEWELL, husband and wife, and
the marital community composed thereof;
and SCOTT LYNCH and JULIE LYNCH,
husband and wife, and the marital community
composed thereof,

Counterclaim Defendants.

No. C 02-1683Z

**DECLARATION OF H. MICHAEL
DUNKLE IN SUPPORT OF VALVE
CORPORATION'S OPPOSITION
TO DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND CROSS-MOTION FOR
PARTIAL SUMMARY JUDGMENT
RE CYBERCAFE**

Noted For: October 8, 2004

DECLARATION OF MICHAEL
DUNKLE - 1

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1 H. Michael Dunkle hereby declares as follows:

2 1 I am over the age of eighteen years and I am competent to make this
3 declaration. I make this declaration based on my own personal knowledge.

4 2. I employed by Valve Corporation ("Valve") and have been since November
5 12, 2000. I am the Director of Valve's cybercafé program, and have held this position for
6 over two years. Valve's cybercafé program involves licensing Valve's games and other
7 software to cybercafés for commercial use on a pay-for-play basis. My duties include overall
8 management and administration of Valve's cybercafé program, determining and
9 implementing the technical requirements of the distribution software used when licensing
10 cybercafés, promoting and marketing our programs, customer relations and advertising.

11 3. I am very familiar with the cybercafé market, particularly in Asia, which has a
12 very strong cybercafé market. I have traveled to Asia several times to promote our cybercafé
13 program and visit with customers and potential customers. In April, 2004, I visited Korea and
14 met with the Director of the Korean Cybercafé Association, as well as individual cybercafés.
15 Korea is the country with the largest cybercafé market currently. Online multiplayer
16 computer gaming is extremely popular there, and Valve's CounterStrike game is the most
17 popular game by far. Korean television regularly televises CounterStrike tournaments. I have
18 spent time in many cybercafés in Asia and the U.S. and am familiar with the way that
19 business is typically conducted. Cybercafés are also referred to as "net cafés," "LAN centers"
20 or "location based entertainment" centers. Cybercafés are commercial businesses open to the
21 public.

22 4. Cybercafés typically contain 10 to 50 networked computers with various
23 games preinstalled and ready for play on each of individual computer. The cybercafé
24 typically lists the games which are available for play on a board behind the counter or on the
25 cybercafe's website. Customers come to the desk and indicate that they want to use a
26 computer. The operator activates a computer and tells the customer which one to use. The

DECLARATION OF MICHAEL
DUNKLE - 2

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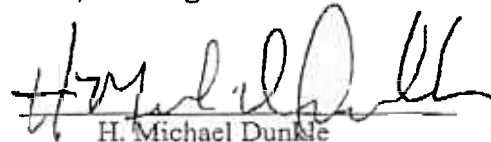
T-443 P.004/004 F-585

1 customer uses the computer, typically for game play, as long as he wants and then returns to
2 the desk to pay for the time used. The cybercafé does not purchase or otherwise obtain copy
3 of the game or any other item from the cybercafé. No tangible thing changes hands. He is not
4 required to install anything on the computer because the software is preinstalled by the
5 cybercafé. The customer does not enter into a EULA before playing the game. The customer
6 simply pays for the time used. Occasionally the cybercafé will sell a block of time to a
7 customer in advance, like a prepaid calling card. Some cybercafés have retail packaged
8 product available for sale to customers, but this is not typical.

9 5. Connection of computers via a LAN or through the internet allows players in a
10 cybercafé to compete against one another in multi-player games such as CounterStrike. Many
11 cybercafés, particularly in Asia, focus their business entirely on gaming and the gaming
12 community, thereby providing a forum for gamers to both play games and socialize. Multi-
13 player games such as CounterStrike are particularly popular in cybercafés. Counter-Strike
14 "teams" of 4-6 customers often come into a cybercafé together and arrange to sit at computers
15 near each other. These teams are often referred to in the gaming community as "clans," and
16 they will play multi-player games online against other teams. Cybercafés will often organize
17 and operate game tournaments and other related game-related events for their customers.

18
19 I declare under penalty of perjury that the foregoing is true and correct:

20
21 EXECUTED this 10th day of September, 2004 at Bellevue, Washington

22
23 
24 H. Michael Dunkle

25
26
DECLARATION OF MICHAEL
DUNKLE - 3

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on September 10, 2004, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification of such filing to the following,

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DECLARATION OF MICHAEL
DUNKLE - 4

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